

SECOND REGULAR SESSION

SENATE BILL NO. 928

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time February 9, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4870S.01I

AN ACT

To amend chapter 144, RSMo, by adding thereto one new section relating to the sales tax treatment of sales for resale, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 144, RSMo, is amended by adding thereto one new
2 section, to be known as section 144.018, to read as follows:

144.018. 1. Other provisions of law to the contrary
2 notwithstanding, except as provided under subsections 2 and 3 of this
3 section, when a purchase of tangible personal property or taxable
4 service is made for the purpose of resale, such purchase shall be either
5 exempt, or excluded, under this chapter if the subsequent sale is:

6 (1) Taxed in this state or any other state;

7 (2) For resale;

8 (3) Excluded from tax under this chapter; or

9 (4) Otherwise subject to, but exempted from, tax under this
10 chapter or, if such subsequent sale is in another state, exempt under
11 the laws of that state.

12 2. For purposes of subdivision (2) of subsection 1 of section
13 144.020, the operator of a place of amusement, entertainment, or
14 recreation, including games or athletic events shall charge tax on the
15 amount of gross receipts the operator charges for admissions or seating
16 accommodations to such place of amusement, entertainment, or
17 recreation. Any subsequent sale of such admissions or seating
18 accommodations by a purchaser shall not be subject to tax. The
19 provisions of this subsection shall not apply if the purchaser of such
20 admission or seating accommodations is an entity that is exempt from
21 payment of sales and use taxes in accordance with subsection 2 of

22 section 144.030.

23 3. For purposes of subdivision (6) of subsection 1 of section
24 144.020, the operator of a hotel, motel, tavern, inn, restaurant, eating
25 house, drugstore, dining car, tourist cabin, tourist camp, or other place
26 in which rooms, meals, or drinks are regularly served to the public
27 shall charge tax on the amount of gross receipts the operator charges
28 for all rooms, meals, and drinks furnished at such hotel, motel, tavern,
29 inn, restaurant, eating house, drugstore, dining car, tourist cabin,
30 tourist camp, or other place in which rooms, meals, or drinks are
31 regularly served to the public. Any subsequent sale of such rooms,
32 meals, or drinks by a purchaser shall not be subject to tax. The
33 provisions of this subsection shall not apply if the purchaser of such
34 rooms, meals, or drinks is an entity that is exempt from payment of
35 sales and use taxes in accordance with subsection 2 of section 144.030.

36 4. The provisions of this section are intended to reject and
37 abrogate earlier case law interpretations of the state's sales and use tax
38 law with regard to sales for resale as extended in *Music City Centre*
39 *Management, LLC v. Director of Revenue*, 295 S.W.3d 465, (Mo. 2009)
40 and *ICC Management, Inc. v. Director of Revenue*, 290 S.W.3d 699, (Mo.
41 2009).

 Section B. Because of the need to ensure the proper application of
2 Missouri sales tax law with regard to sales for resale, section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare,
4 peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and section A of this act shall be in full force and
6 effect upon its passage and approval.

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